

## REMARKS

Applicant replies to the Office Action dated September 29, 2009, within the shortened statutory three month period for reply. Claims 1 - 4 were pending in the application. The Examiner rejects claims 1 - 4. Applicant adds new claims 7 - 8. Support for the new claims and amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by the new claims and these amendments. Reconsideration of this application is respectfully requested.

The Examiner rejects claims 1-2 under 35 USC 103(a) as being obvious over Park, US Patent Publication 2004/0223440 A1 ("Park") in view of Williams, US Patent No. 4,953,122 ("Williams"). The Examiner next rejects claims 3-4 under 35 USC 103(a) as being obvious over Park in view of Williams, and further in view of Hwang, US Patent No. 5,825,726 ("Hwang"). Applicant respectfully disagrees, but Applicant amends certain claims and adds new claims to expedite prosecution and to clarify the claims.

In response to Applicant's arguments to the previous Office Action, the Examiner provides the same assertion as in the previous Office Action; however, the Examiner now acknowledges that Park does not teach recording data at a replacement location in the user data area. The Examiner instead asserts that Park only teaches recording data at a replacement location in the spare data area and the Examiner asserts that Williams teaches recording data at a replacement location in the user data area.

However, Applicant respectfully asserts that the Examiner has not specifically addressed Applicant's arguments 1-3 below. Applicant respectfully requests that the Examiner address each argument in any subsequent Action.

1. Applicant asserts that Park does not teach a drive apparatus for pseudo-overwrite recording because Park's drive apparatus is only for **managing disc management information and recovering management information**. As such, Applicant asserts that Park does not disclose or contemplate at least "A drive apparatus for performing a **pseudo-overwrite recording** for a write-once recording medium".

2. Applicant asserts that Park does not teach recording data at a replacement location in the user data area because Park only teaches recording data at a replacement location in the **spare data area**. As such, Applicant asserts that Park does not disclose or contemplate at least “controlling the recording/reproduction section to record data at a replacement location in the **user data area instead** of the location included in the recording instruction.”
3. Based on the above, Applicant asserts that the recording apparatus of claim 1 will record data at another location **independent** of whether a defective area exists, while Park’s recording apparatus will **transfer** data to another location **dependent** on whether a defective area exists. As such, Applicant asserts that Park does not disclose or contemplate at least “determining a track among at least one tracks corresponding to the location included in the recording instruction . . . controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction.”

To expedite prosecution, Applicant amends claim 1 to recite how the pseudo-overwrite recording is performed and such recording details are not described in the cited references. Support for this amendment can be found in at least page 41, lines 5-9 of the originally filed specification in the USPTO.

Applicant asserts that Park does not teach “wherein the location at which data is to be recorded is a location at which previous data is recorded,” as set forth in independent claim 1, because Park does not teach the receiving recording instructions of locations at which data is recorded. More specifically, Park describes that the recording location is a location at which data is considered to be usable (i.e., no data is recorded onto; page 4, paragraph [0060] of Park). That is, Park’s recording location is a location at which data is not recorded, wherein the recording location of the claimed invention is a location at which previous data is recorded. Applicant asserts that an advantage of the claimed invention (which is not achieved by Park) is that, from the user’s point of view, information on the write-once recording medium can now be “replaced” by use of pseudo-overwrite recording.

Furthermore, Applicant asserts that Williams and Hwang fail to make up for the deficiency of Park. More specifically, Williams does not describe that the write command (i.e., "recording instruction") includes any location to write the data. Rather, Williams only describes that when a write command is received, the controller 14 first locates the next sequential free data storage segment on disk 24 (see, e.g., column 11, lines 51-59, and Fig. 4 of Williams). This means that the write command only indicates that data is to be written somewhere, and does not indicate a location for where the data is to be written, while the recording instruction of the claimed invention includes a location at which data is to be recorded.

Hwang is not cited against claims 1 and 2. However, Hwang does not appear to recite receiving any recording instructions.

Claims 2-4 depend from independent claim 1. Applicant asserts that claims 2-4 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

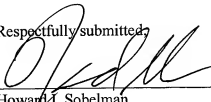
New claim 7 includes at least "receiving a recording instruction including a location at which data is to be recorded, wherein the location at which data is to be recorded is a location at which previous data is recorded" which is a similar element as used to differentiate from the cited references above. As such, Applicant asserts that new independent claim 7 is differentiated from the cited references for the same reasons as set forth above.

Claim 8 depends from independent claim 7. Applicant asserts that claim 8 is differentiated from the cited references for the same reasons as set forth above, in addition to its own respective features.

In view of the above remarks, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as the invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. Should the Examiner have any suggestions to place the application in even better condition for allowance, Applicant requests that the Examiner contact the undersigned representative at the telephone number listed below. The Commissioner is authorized to charge any fees due or

refund any overpayment to Deposit Account No. 19-2814, including extension of time fees, if needed.

Respectfully submitted,



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